

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

NIKO J. RAMIREZ,

Plaintiff,

v.

WARDEN,

Defendant.

Case No. 1:23-cv-00737-HBK

ORDER GRANTING APPLICATION TO  
PROCEED *IN FORMA PAUPERIS*

(Doc. No. 2)

ORDER DIRECTING PAYMENT  
OF INMATE FILING FEE BY THE  
CALIFORNIA DEPARTMENT OF  
CORRECTIONS

Plaintiff, a prisoner, initiated this action on May 12, 2023, by filing a *pro se* civil rights complaint pursuant to 42 U.S.C. § 1983. (Doc. No. 1, Complaint). Plaintiff seeks leave to proceed *in forma pauperis* in this action.<sup>1</sup> (Doc. No. 2) and submitted a copy of his prison trust fund statement and/or certification from prison officials in support. (Doc. No. 7). Plaintiff has made the showing required by § 1915(a) to proceed *in forma pauperis* but remains obligated to pay the full \$350.00 statutory filing fees as set forth in 28 U.S.C. § 1915. **Pursuant to § 1915(b)(1)(A), Plaintiff is obligated to make an initial payment of \$27.00<sup>2</sup> (20% of the**

<sup>1</sup> Plaintiff's second filed motion to proceed *in forma pauperis* (Doc. No. 9) is mooted considering the Court granting the earlier filed motion.

<sup>2</sup> The statute requires an initial filing fee of 20% of the greater of the six-months average monthly deposits or average monthly balance. 28 U.S.C. § 1915(b)(1)(A), (B). Plaintiff had over \$820.00 in deposits over the relevant six-month period.

1 **average 6-month deposits to the prisoner's account).** Thereafter, Plaintiff must make monthly  
2 payments of 20% of the preceding month's income credited to his trust account. The California  
3 Department of Corrections is required to send the initial \$27.00 payment to the Clerk of the Court  
4 and subsequent payments from Plaintiff's account each time the amount in her account exceeds  
5 \$10.00, until the statutory filing fee is paid in full. 28 U.S.C. § 1915(b)(2).

6 ACCORDINGLY, it is **ORDERED**:

7 1. Plaintiff's motion to proceed *in forma pauperis* (Doc. No. 2) is GRANTED and his  
8 second filed motion (Doc. No. 9) is deemed MOOT.

9 2. **The Secretary of the California Department of Corrections, or his designee shall**  
10 **forward an initial payment of \$27.00 to the Clerk of the Court from Plaintiff's prison trust**  
11 **account in accordance with 28 U.S.C. § 1915(b)(1)(B) and shall make future monthly**  
12 **payments in an amount equal to twenty percent (20%) of the preceding month's income**  
13 **credited to the Plaintiff's trust account each time the amount in the account exceeds \$10.00,**  
14 **in accordance with 28 U.S.C. § 1915(b)(2), until a total of \$350.00 has been collected and**  
15 **forwarded to the Clerk of the Court.** The payments shall be clearly identified by the name and  
16 number assigned to this action.

17 3. The Clerk of the Court is directed to serve a copy of this order and a copy of Plaintiff's  
18 *in forma pauperis* application on the Secretary of the California Department of Corrections, via  
19 the court's electronic case filing system (CM/ECF).

20 4. The Clerk of the Court is directed to serve a copy of this order on the Financial  
21 Department, U.S. District Court, Eastern District of California.

22  
23 Dated: July 6, 2023

  
HELENA M. BARCH-KUCHTA  
UNITED STATES MAGISTRATE JUDGE